

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

OREGON RIGHT TO LIFE,

Civ. No. 6:23-cv-01282-MK

Plaintiff,

ORDER

v.

ANDREW R. STOLFI, in his official
capacities as Department of Consumer
and Business Services Director and
Oregon Insurance Commissioner,

Defendant.

AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation filed by Magistrate Judge Mustafa Kasubhai. ECF No. 42. Judge Kasubhai recommends that Defendant's Motion to Dismiss, ECF No. 29, be denied.

Under the Federal Magistrates Act, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."). Although no review is required in the absence of objections, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the court should review the recommendation for "clear error on the face of the record."

In this case, Defendant has filed Objections, ECF No. 48, urging the Court to grant the motion to dismiss. Plaintiff has filed a Response to the Objections. ECF No. 49. The underlying Motion to Dismiss and the arguments offered against it are a restatement of the arguments presented for and against Plaintiff's Motion for a Preliminary Injunction. *See* Def. Mot. 2 ("This claim fails as a matter of law for the reasons argued in Section IV.B.2 of the Defendants' Response to the Motion for a Preliminary Injunction."). In essence, Defendant maintains that the challenged statute, ORS 743A.067, is subject to rational basis review because it is a neutral and generally applicable law. Plaintiff maintains that the statute is subject to strict scrutiny because it is neither neutral nor generally applicable.

The Court fully considered this issue in its Opinion and Order on the Motion for Preliminary Injunction and concluded that ORS 743A.067 is neutral and generally

applicable and so rational basis review applies. The Court further concluded that the statute passed muster under rational basis review because it was rationally related to a legitimate governmental purpose. The same analysis applies with equal force to Defendant's Motion to Dismiss. The Court therefore declines to adopt the F&R, ECF No. 42. The Court will GRANT Defendant's Motion to DISMISS, ECF No. 29. This case is DISMISSED and final judgment shall be entered accordingly.

It is so ORDERED and DATED this 30th day of September 2024.

/s/Ann Aiken

ANN AIKEN

United States District Judge